

IN RE: PETITION FOR ZONING VARIANCE
NE/S Galena Rd., 287 ft. NW
of Waterford Rd.
1443 Galena Road
15th Election District
5th Councilmanic
John Mugrage, et ux
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 92-45-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request, pursuant to the Petition for Zoning Variance, a variance from Section 415.A.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a recreational vehicle (trailer boat) to be located in the front yard, in lieu of the required rear or side yard, 8 ft. behind the lateral projection of the front foundation wall of the dwelling, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioner/property owner, James Mugrage, appeared, testified and was represented by James F. McAvoy, Esquire. There were no Protestants.

The Petitioner testified that the subject property, known as 1443 Galena Road, is zoned D.R.5.5, and is 50 ft. wide by 200 ft. deep. The house thereon is 40 ft. wide by 32 ft. deep and, therefore, there is limited distance from the side of the dwelling to the side yard property line.

The Petitioner submitted a site plan, identified as Petitioner's Exhibit No. 1, which depicts the side yard distances on each side. Further, because of the air conditioning and chimney unit on the one side and utility box on the other side, the actual unimpeded side yard distance is less than 8 ft.

Mr. Mugrage also testified that he owns an 18-1/2 ft. boat which is

approximately 7-1/2 ft. wide. Due to the limited unimpeded distance of his side yard and the dimensions of his boat and trailer, he testified that he was unable to store the boat in either side yard. He further noted that his property is fenced on both sides and there is insufficient clearance distance to move the boat to the rear yard. Also, access to the rear yard can only be through the side yard in view of adjacent properties to the rear of the subject site. Lastly, Mr. Mugrage testified that the subject property is located within a waterfront community and numerous neighbors keep and maintain boats on their properties. He testified that he has owned this boat since 1982, and keeps it covered while it is stored on the property so that it is not an eyesore to the community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 27 Md. App.

28 (1974).

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result

if the variance was not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety and general welfare and is not contrary to the spirit of the B.C.Z.R.

This property is located within the Chesapeake Bay Critical Areas and is subject to compliance with the recommendations to be made by the Department of Environmental Protection and Resource Management (DEPRM), pursuant to Section 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.), upon completion of their findings. The relief granted herein shall be conditioned upon Petitioner's compliance with said findings.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17th day of Oct., 1991 that, pursuant to Petition for Zoning Variance, a variance from Section 415.A.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a recreational vehicle (trailer boat) to be located in the front yard in lieu of the required rear or side yard 8 ft. behind the lateral projection of the front foundation wall of the dwelling, in accordance with Petitioner's Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return,

and be responsible for returning, said property to its original condition.

2. Compliance with all Zoning Plans Advisory Committee comments, including, but not limited to, any final recommendations to be submitted by DEPRM upon completion of their review of this project. Written proof of compliance with any final recommendations made by DEPRM must be submitted to the Zoning Commissioner's Office for review and inclusion in the case file.

Lawrence F. Schmidt
LAWRENCE F. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mnn
cc: Peoples Counsel

Petition for Variance

to the Zoning Commissioner of Baltimore County **92-45-A**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 415.A.1 to allow a recreational vehicle (trailer boat) to be located in the front yard in lieu of the required rear or side yard 8 feet behind the lateral projection of the front foundation wall of the dwelling.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

PRACTICAL DIFFICULTY--Due to width of Lot and obstructions (trees, chimney, heat pump) owner cannot fit trailer boat on side yard or tow it into back yard.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this petition.

Legal Owner(s):

James Mugrage

(Type or Print Name)

Signature

Mary J. Mugrage

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

James F. McAvoy

(Type or Print Name)

Signature

Maritime Center, Suite 210

Address 6610 Tributary Street

Baltimore, Maryland 21224-6514

City and State

Attorney's Telephone No.: 633-5600

1443 Galena Road 686-7026

Address Phone No.

Baltimore, Maryland 21221

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING -1/2HR. 4HR.

AVAILABLE FOR HEARING MON, TUES, WED, - NEXT TWO MONTHS

ALL OTHERS

REVIEWED BY: DATE: 7-25-91

ZONING DESCRIPTION

92-45-A

BEGINNING at a point on the north side of Galena Road which is 50 feet wide at the distance of 287 feet west of the center line of the nearest improved intersecting street, Waterford Road, which is 50 feet wide. Being lot No. 50 in the subdivision of Hyde Park as recorded in the Baltimore County Plat Book W.B.M. 9, folio 59, containing 10,000 square feet also known as 1443 Galena Road and located in the 15th Election District.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 15th Date of Posting: 10/17/91

Posted for: James Mugrage et ux

Petitioner: James Mugrage et ux

Location of property: 1443 Galena Road

Location of Sign: 1443 Galena Road

Remarks: None

Posted by: James Mugrage et ux Date of return: 10/17/91

Number of Signs: 1

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-45-A
1443 Galena Road, 287 ft. NW of Waterford Road
15th Election District
5th Councilmanic
Petitioner(s): James Mugrage et ux
Hearing Date: Wednesday, October 2, 1991
at 11:00 a.m.

Variance: to allow a recreational vehicle (trailer boat) to be located in the front yard in lieu of the required rear or side yard 8 feet behind the lateral projection of the front foundation wall of the dwelling.

Zoning Commissioner of Baltimore County
8:301 August 28

CERTIFICATE OF PUBLICATION

TOWSON, MD., Aug. 30, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Aug. 29, 1991.

THE JEFFERSONIAN,

S. Zeke Olson
Publisher

301 - \$37.52

CERTIFICATE OF PUBLICATION

Office of

THE AVENUE NEWS

442 Eastern Blvd.
Balto., Md. 21221

Aug. 29, 1991

THIS IS TO CERTIFY, that the annexed advertisement of

James Mugrage in the matter of Zoning Hearing of 1443 Galena Rd. P.O. #0114446 Rev #N54973 Case # 92-45-A 56 lines @.55 or \$33.60

was inserted in The Avenue News a weekly newspaper

published in Baltimore County, Maryland once each 1

successive week(s) before the 23 day of Aug, 1991

that is to say, the same was inserted in the issues of Aug. 29, 1991

The Avenue Inc.

per publisher

By *James Mugrage*

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-45-A
1443 Galena Road, 287 ft. NW of Waterford Road
15th Election District - 5th Councilmanic
Petitioner(s): James Mugrage, et ux

HEARING: WEDNESDAY, OCTOBER 2, 1991 at 11:00 a.m.

Variance to allow a recreational vehicle (trailer boat) to be located in the front yard in lieu of the required rear or side yard 8 feet behind the lateral projection of the front foundation wall of the dwelling.

Zoning Commissioner of Baltimore County

33.60

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Date

CRITICAL AREA

Account: R 001 6150
Number

0440480098MCHRC
SA C010119A07-25-91
Please Make Checks Payable To Baltimore County

\$35.00

Cashier Validation

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Date

92-45

Account: R 001 6150
Number

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 9/1/91

COPY

James and Mary Murgage
1443 Galena Road
Baltimore, Maryland 21221

RE:
Case Number: 92-45-A
NE/S Galena Road, 287' NW of Waterford Road
1443 Galena Road
15th Election District - 5th Councilmanic
Petitioner(s): James Murgage, et ux
HEARING: WEDNESDAY, OCTOBER 2, 1991 at 11:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 96.12 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland Fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

James F. McAvoy, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

AUGUST 13, 1991

COPY

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-45-A
NE/S Galena Road, 287' NW of Waterford Road
1443 Galena Road
15th Election District - 5th Councilmanic
Petitioner(s): James Murgage, et ux
HEARING: WEDNESDAY, OCTOBER 2, 1991 at 11:00 a.m.

Variance to allow a recreational vehicle (trailer boat) to be located in the front yard in lieu of the required rear or side yard & feet behind the lateral projection of the front foundation wall of the dwelling.

J. Robert Haines
Zoning Commissioner of
Baltimore County

cc: James and Mary Murgage
James F. McAvoy, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

September 11, 1991

NOTICE OF REASSIGNMENT

CASE NUMBER(s): 92-45-A
PROPERTY OWNER(s) James & Mary Murgage
LOCATION: NE/S Galena Road
1443 Galena Road

THE ABOVE MATTER HAS BEEN REASSIGNED. HEARING WILL NOW TAKE PLACE AS FOLLOWS:

TUESDAY, OCTOBER 8, 1991 at 11:00 A.M.

IN THE BALTIMORE COUNTY COURTHOUSE, 400 WASHINGTON AVENUE, ROOM 118,
TOWSON, MARYLAND 21204.

ZONING COMMISSIONER
BALTIMORE COUNTY

cc: James & Mary Murgage
James F. McAvoy, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

September 25, 1991

James F. McAvoy, Esquire
Maritime Center, Suite 210
6610 Tributary Street
Baltimore, MD 21224-6514

RE: Item No. 39, Case No. 92-45-A
Petitioner: James Murgage, et ux
Petition for Variance

Dear Mr. McAvoy:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE MINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. James Murgage
1443 Galena Road
Baltimore, MD 21221

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 25th day of July, 1991.

Arnold Jablon
DIRECTOR

Received By:
James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: James Murgage, et ux
Petitioner's Attorney: James F. McAvoy

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

AUGUST 6, 1991

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: JAMES MURAGE
Location: #1443 GALENA ROAD
Item No.: 39 Zoning Agenda: AUGUST 6, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Sgt. James Kelly 8-7-91 Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: August 16, 1991
Zoning Administration and
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Walker Property, Item No. 505
Parsons Property, Item No. 9
Donovan Property, Item No. 10
Wolf Property, Item No. 17
Pearson Property, Item No. 19
Stifler Property, Item No. 22
Felts Property, Item No. 24
Melchor Property, Item No. 25
Faulkner Property, Item No. 27
McJilton Property, Item No. 32
Horne Property, Item No. 33
Elsnic Property, Item No. 38
Murgage Property, Item No. 39
Copeland Property, Item No. 42
Eckert Property, Item No. 44
Hartel Property, Item No. 50
Gimbel/Gaffney Property, Item No. 51

In reference to the Petitioners' requests, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/pat
NUMEROUS.ITM/ZAC1

Rec'd 8/22/91

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

DATE: October 4, 1991

FROM: J. James Dieter, Director

SUBJECT: Petition for Zoning Variance - Item 39
Mugrage Property
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject property is located at 1443 Galena Road. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. Mugrage

APPLICANT PROPOSAL

The applicant proposes to locate a trailered boat in the front yard. The applicant has requested a variance from section 415A.1 of the Baltimore County Zoning Regulations to permit "a recreational vehicle (trailered boat) to be located in the front yard in lieu of the required rear or side yard eight feet behind the lateral projection of the front foundation wall of the dwelling".

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law.

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands; and
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." <COMAR 14.15.10.01.0>

Memo to Mr. Arnold Jablon
October 4, 1991
Page 2

DEFINITIONS

"Development Activities" means the construction or substantial alteration of residential, commercial, industrial, institutional, or transportation facilities or structures.

Finding: This project does not propose any development activities as defined above and is therefore not subject to Critical Area Development Regulations.

CONCLUSION

This project does not require a Findings because of the reason stated above. If there are any questions, please contact Mr. David C. Flowers at 887-2904.

JJD:DCF:ju

MUGRAGE/TXTNSS

J. James Dieter
J. James Dieter, Director

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

CRITICAL AREA

111 West Chesapeake Avenue
Towson, MD 21204

NS-5353

July 25, 1991

92-45-A

James F. McAvoy, Esq.
Maritime Center, Suite 210
6610 Tributary Street
Baltimore, Maryland 21224-6514

RE: Zoning Variance Petition
1443 Galena Road
Item #39

Dear Mr. McAvoy:

I have received your letter, dated July 23, 1991, which accompanied your clients variance petition forms and plats. Please be advised that all zoning petitions must be filed in person. The filing fee is thirty-five (\$35.00) dollars (the amount of your first check). Enclosed is your second check in the amount of Twenty-five (\$25.00) dollars and your receipt. You will receive a copy of a bill for your clients posting and advertising costs in approximately six weeks. Additionally you (or your client) must contact Mr. David Flowers of the Department of Environmental Protection and Resource Management at 887-2904 as soon as possible with regard to this filing.

If you have any questions, please do not hesitate to call me at 887-3391.

Very truly yours,

John J. Sullivan
John J. Sullivan
Planner II

JJS:jat
cc: James Mugrage, 1443 Galena Road, Baltimore, Md. 21221
File

Plat to accompany Petition for Zoning Variance Special Hearing

PROPERTY ADDRESS: 1443 Galena Road
Subdivision name: HYDE PARK
Plat book # 1, color 1, lot # 32, section #
see pages 5 & 6 of the CHECKLIST for additional required information

OWNER: JAMES F. McAVOY, ESQ.

92-45-A

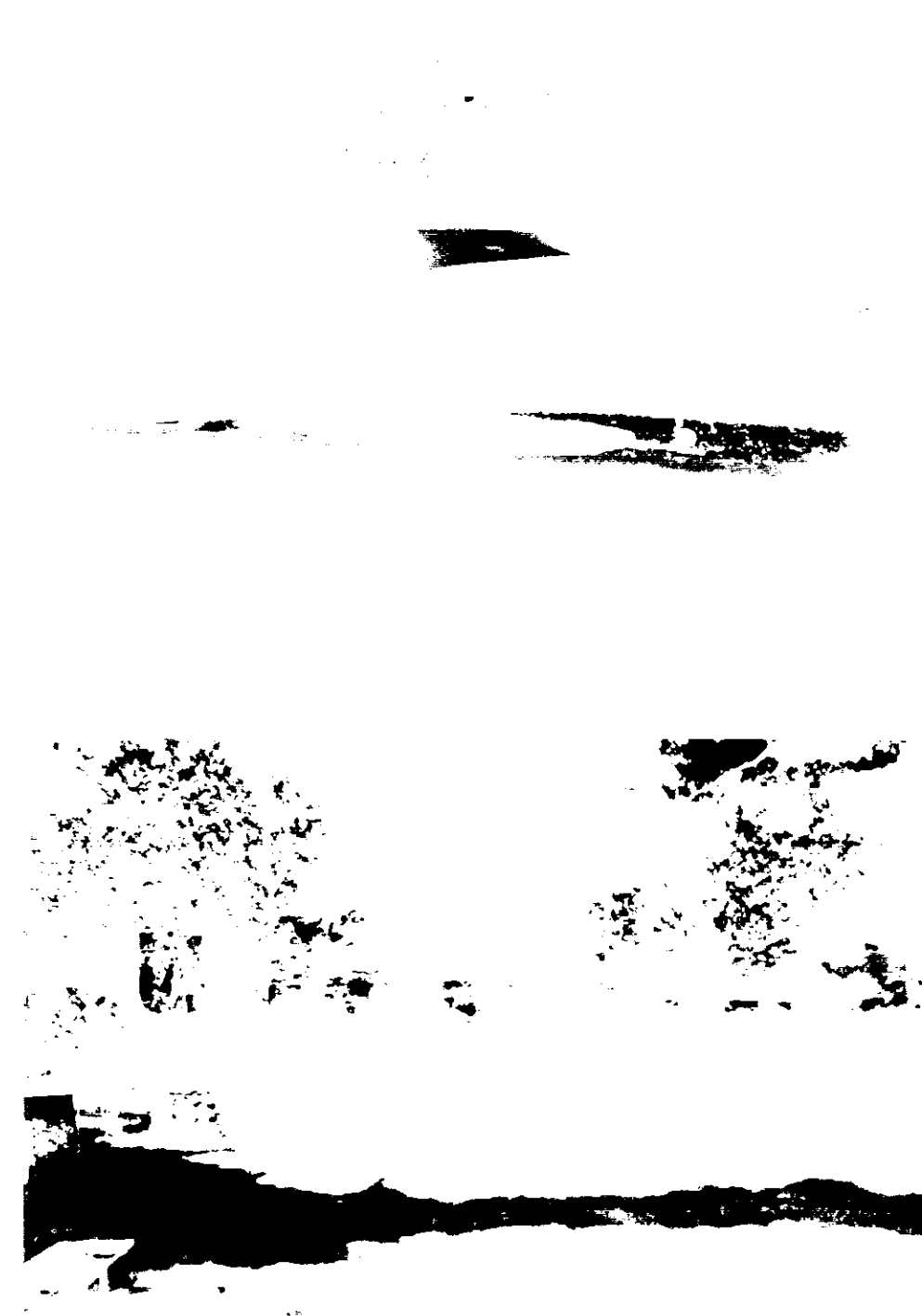
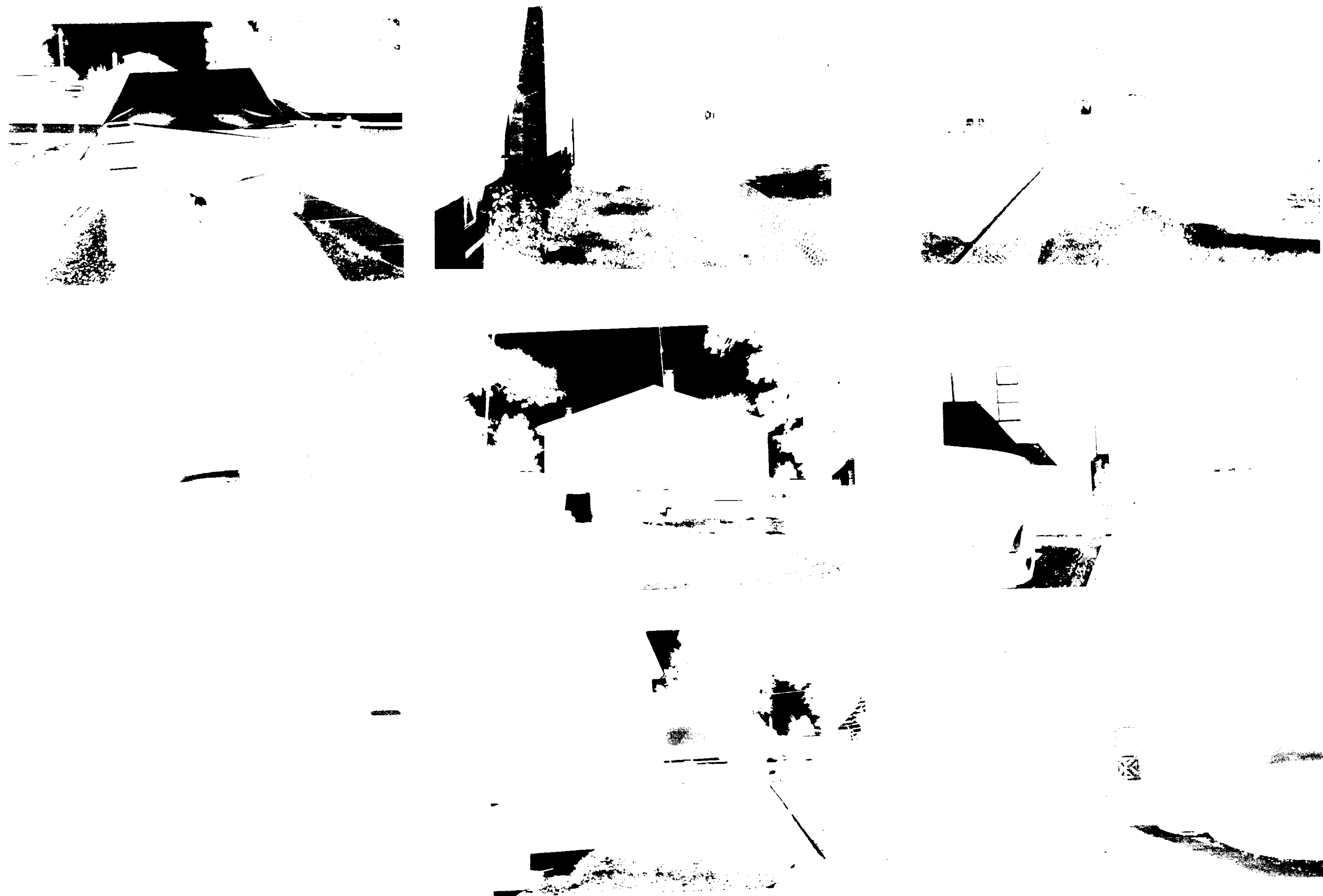
North
date: 10/10/91
prepared by: J. J. Sullivan

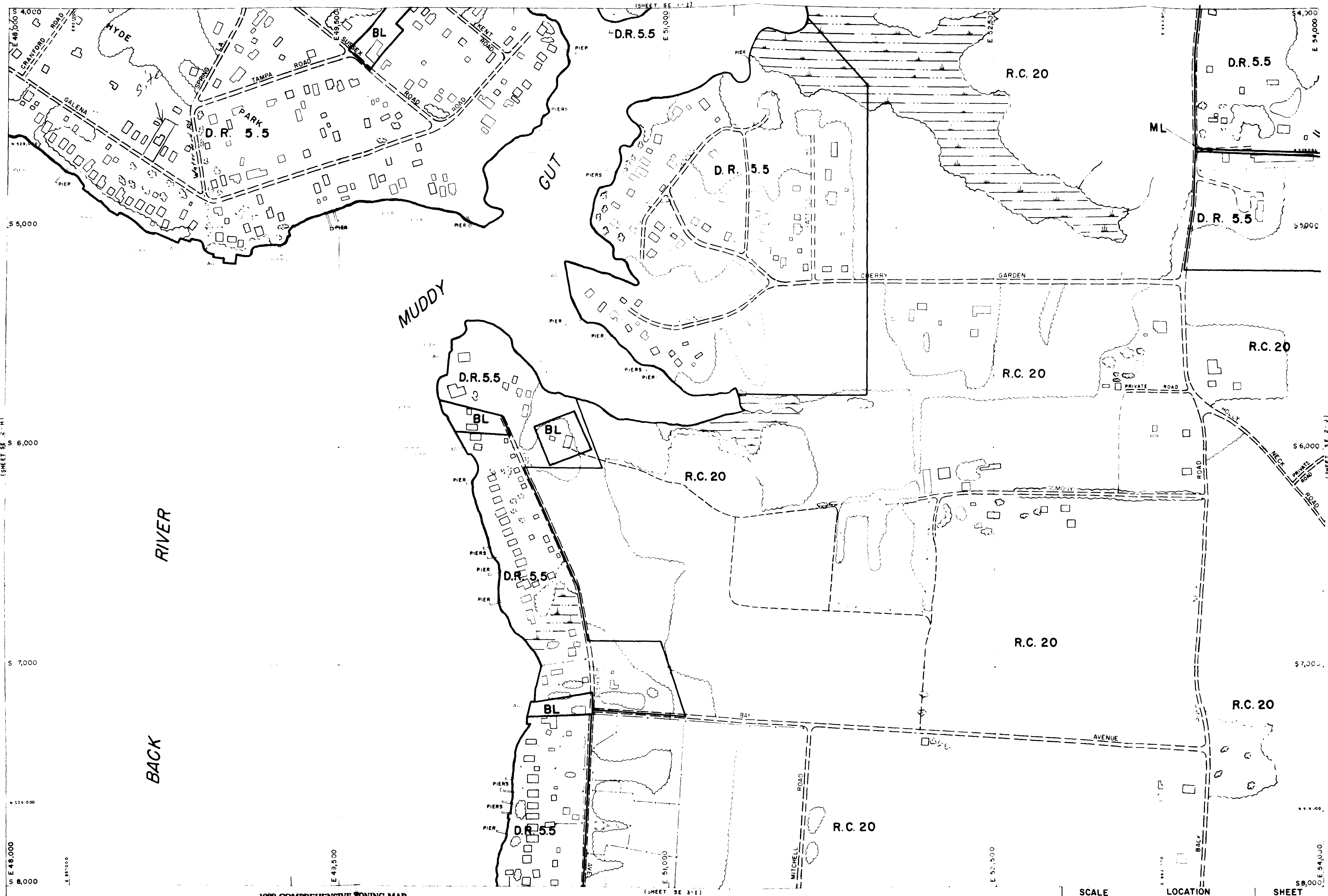
Scale of Drawing: 1" = 50'

LOCATION INFORMATION

Councilmanic District: 6
Election District: 15
1"=200' scale map: SE, 2
Zoning: 2-1-1
Lot size: 10,000 square feet
acreage
SEWER: ☐ ☐
WATER: ☐ ☐
Chesapeake Bay Critical Area: ☒
Prior Zoning Hearings: NONE

Zoning Office USE ONLY!
reviewed by: *JJS* ITEM #: 39 CASE#:
CRITICAL AREA





THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

1986 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1986
EIN Nos. 144-86, 145-86, 146-86, 147-86, 148-86, 149-86, 150-86
Debbie A. [Signature]
Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

SCALE 1" = 200'	LOCATION BACK RIVER NECK	SHEET S.E. 2-1
DATE OF PHOTOGRAPHY JANUARY 1986		

92-45-A